

Notice of Allowability

Application No.

10/068,943

Examiner

Nelson D. Hernandez

Applicant(s)

PRENTICE ET AL.

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to June 15, 2005.
2. ☒ The allowed claim(s) is/are 1,2,4-10 and 12-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Amendment

1. Examiner acknowledges the amendments made on the claims. Claims 1, 4, 7-9, 12 have been amended. Claims 3 and 11 have been cancelled.

Response to Arguments

2. Applicant's arguments, see page 8, filed June 15, 2005, with respect to claims 1, 3, 4, 8-12, 16 and 17 have been fully considered and are persuasive. The rejections on claims 1, 3, 4, 8-12, 16 and 17 have been withdrawn.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peyton C. Watkins (Attorney on Record) on September 6, 2005. On a telephone interview, Examiner pointed out that claim 16 would be rejected under 35 U.S.C. 101 because computer program does not define any structural and functional interrelationships between the computer program and the other claimed elements of a computer which permit the computer program's functionality to be realized. Also a possible amendment to the claim to overcome the rejection under 35 U.S.C. 101 would

Art Unit: 2612

not have sufficient support in the specifications. Therefore, the attorney on record agreed on canceling claims 16-20.

The application has been amended as follows:

Claims 16-20 have been deleted.

Allowable Subject Matter

4. **Claims 1, 2, 4-10 and 12-15** are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1, 8 and 9, the main reason for indication of allowable subject matter is because the prior art fails to teach or reasonably suggest that the generation of dark level correction is based on the pixel value count.

Sawachi, US Patent 5,512,947 discloses a method of correcting for dark current in a solid state image sensor, comprising the steps of: capturing an image with the image sensor (Figs. 1: 3 and 2: 3) to produce a digital image having pixel values; correcting the pixel values with a dark level correction value (Using Microcomputer in fig. 2:13); employing a control system to adjust the dark level correction (Using comparator in fig. 2: 47 to adjust the correction value) value to drive the number of pixels having values lower than a predetermined value (Counted by integrator in fig. 2: 49) chosen to represent dark scene content to a predetermined range, also discloses that the sensor (Figs. 1: 3 and 2: 3) captures a stream of digital images, and wherein the control system performs the steps of: sampling a digital image from the stream of

Art Unit: 2612

dark current corrected digital images; generating a count (Using integrator, see fig. 2: 49) of the number of pixel values in the sampled digital image that are less than a predetermined value; generating a dark level correction value adjustment (Using Microcomputer in fig. 2:13); and applying the adjustment to the dark level correction value (Using clamp circuits in fig. 2: 29 and 2: 37 based on data comparator in fig. 2: 47 to adjust the correction value) (Col. 2, lines 10-25; col. 3, lines 18-37; col. 4, lines 60-65; col. 5, line 22 – col. 6, lines 23; col. 6, line 48 – col. 7, line 16).

However, Sawachi fails to teach or reasonably suggest that the generation of dark level correction is based on the pixel value count.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (571) 272-7311. The examiner can normally be reached on 8:00 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nelson D. Hernandez
Examiner
Art Unit 2612

NDHH
September 2, 2005



THAI TRAN
PRIMARY EXAMINER